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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,435

07/25/2006

Karl Freudelsperger

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SCARBOROUGH STATION

SCARBOROUGH, NY 10510-9227

EXAMINER

RUDAWITZ, JOSHUA I

ART UNIT

PAPER NUMBER

3652

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,435	<b>Applicant(s)</b> FREUDELSPERGER, KARL	
	<b>Examiner</b> JOSHUA I. RUDAWITZ	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/25/2006</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 10-11, 13 and 16 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. With regards to claim 10, the examiner notes that the limitation “preferably” in line 5 of the claim seems to place the limitation following in the optional. For the sake of examination the examiner will understand that this is not a required limitation but rather an optional limitation.
4. Claim 10 recites the limitation "said end-side rollers" and "rails" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-9, 12 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamide (US 2002/0039527).

Kamide discloses a storage and retrieval unit for transporting goods from or into a shelf; a vertical mast 10; a longitudinal drive 8/9 connected to the mast; a

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height-adjustable goods receiver 18 provided at the vertical mast, characterized in that the vertical mast is designed as comprising an articulated mast with a joint 22, which makes possible a deflection, see figure 4, of the articulated mast in the direction of longitudinal displacement; a guide/readjusting device 26 with articulated rods, including an articulated oscillating crank 29, which returns the articulated mast into the normal position upon a guided deflection; the joint is located in the area of the longitudinal drive; the longitudinal drive is arranged in the area of an upper and lower mast end wherein the articulated mast is suspended on an upper chassis; the guide/readjusting device has another longitudinal drive 9, and the two longitudinal drives may be operated synchronously; the two longitudinal drives are operated synchronously such that the articulated mast is arranged vertically during the normal operation of a longitudinal displacement of the storage and retrieval unit, and that guided deflection of the articulated mast can take place in case of an emergency stop of the storage and retrieval unit; the guide/readjusting device (-9-) comprises an elastic readjusting means 28; the goods receiver 18, is adjustable in height at the articulated mast and is located in the area of the joint for the longitudinal displacement of the storage and retrieval unit to a site of operation of the shelf on the shelf front or on the shelf rear; the upper and lower chassis are guided in a non-tilting manner on rails 6/7; the rails are integrated parts of the shelf; the articulated mast or the joint of the articulated mast, has a blocking device 25/24, which prevents deflection of the articulated mast up to a mast load limit value and

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permits deflection of the articulated mast when the mast load limit value is exceeded; the mast load limit value is a lateral force limit value of the articulated mast or an acceleration/deceleration limit value of the longitudinally displaceable storage and retrieval unit; the guide/readjusting device comprises a bent guide 28, comprising a sliding guide 26 with lateral sliding blocks at the deflectable end of the articulated mast, which makes possible an exact bent guiding of the deflectable end of the articulated mast during unhindered deflection of the articulated mast along the arc and clearance-free guiding in the transverse direction; and a method for longitudinally positioning the storage and retrieval unit at a site of operation of the shelf, the longitudinal drives are operated such that the articulated mast is arranged vertically during normal operation of a longitudinal displacement of the storage and retrieval unit and that providing guided deflection of the articulated mast and guided returning takes place return of the articulated mast in case of an emergency stop of the storage and retrieval unit.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 10, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamide (US 2002/0039527) in view of Dahm (US 4,217,530).

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Kamide discloses the mast that has a load limit value that can be set and an electric drive 8.

Kamide discloses two motors driving the stacker crane, but fails to disclose the specifics, namely the chassis has at least four axes with end-side rollers, which are guided in the rails in a non-tilting manner, wherein two axes each are arranged as an axis pair one on top of another and the two axis pairs are located at horizontally spaced locations from one another at a short distance (d); the chassis has a friction wheel as a driving wheel, which meshes with one of the rails in a rolling- driving manner.

Dahm discloses a chassis has at least four axes with end-side rollers 108-113, which are guided in the rails 100 in a non-tilting manner, wherein two axes each are arranged as an axis pair one on top of another, 113/109 and the two axis pairs are located at horizontally spaced locations from one another at a short distance (d); the chassis has a friction wheel 37 as a driving wheel, which meshes with one of the rails in a rolling- driving manner in order to provide additional stabilization. Therefore it would have been obvious to a person having ordinary skill in the art at the time of invention to include the specific side rollers and drive of Dahm in the device of Kamide in order to provide additional stabilization.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA I. RUDAWITZ whose telephone number is (571)272-7856. The examiner can normally be reached on Monday - Friday, 7:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. I. R./  
Examiner, Art Unit 3652

/Saúl J. Rodríguez/  
Supervisory Patent Examiner, Art  
Unit 3652